

Waiver Requests as of May 5th,2025

As Part of the Comprehensive Permit process, the Ashland Board of Appeals has the authority under M.G.L. Chapter 40B and its implementing regulations to waive requirements of local bylaws; further, the Board of Appeals can act on behalf of any local permitting authority through the Comprehensive Permit process. The project plans reflect an attempt to minimize the number of waivers requested and we believe reflects a plan that is contextually appropriate on several different levels. Please find a table of the waivers necessary to permit the proposed project. This document and waivers are reflective of the Preliminary Site Development Plans dated March 5, 2024 and revised 4/29/2025.

WAIVERS FROM ZONING BYLAW OF THE TOWN OF ASHLAND (Chapter 282)			
LOCAL REGULATION	REQUIREMENT	PROPOSED	EXPLANATION
1. Section 8.5.5.1	Ground floors of buildings which front on streets shall be reserved for non - residential uses.	Two buildings are proposed for this project that will be located along Main Street. Both non-residential and residential are proposed on the ground floors.	The proposed development program reflects some recommendations received by the Town relative to having some mixed-used components. But the entire ground floor will not feature exclusively commercial space
2. Section 8.5.6.1	Front Building Setback: 8' Minimum 15' Maximum	12'-7" Minimum (Retaining wall) 16'-3" Minimum (Building) 132'-1" Maximum (Building)	The front building setback varies between 16'-3" and 132'-1"for the proposed buildings. The proposed retaining wall near the proposed Public Plaza is roughly 12'-7" from the existing property line. The setback varies and exceeds 15 feet in many areas. The variable front setback adds interest to the design program and breaks up the mass of the front facade. The area between the property frontage and building is proposed with landscaping and some pedestrian amenities to enhance the public realm experience. The variable setbacks to the front lot line is necessary to build the project as proposed.

<p>3. Section 8.5.6.1</p>	<p>Building Height (Max): 3 Stories (Max 38')</p>	<p>6 Stories (69' – 11") 5 Floors over parking garage (60'-11" from street grade)</p>	<p>The variable building heights provide architectural and visual interest, while supporting the overall development program and financial viability of the project. The tallest points of the building are setback significantly into the site and not particularly visible from Main Street or Myrtle Street.</p>
<p>4. Section 8.5.6.2</p>	<p>Building Orientation. Buildings shall be placed on the site to define the edges of streets and public spaces, constructed to be parallel to the street or public space. Multiple buildings on single lots are permitted. Where multiple buildings exist, to the extent practicable they shall be arranged to form a grid-like pattern</p>	<p>The existing lot has frontages on both Main Street and Myrtle Street. The proposed building mainly follows Main Street and varies in depth from the front property line.</p>	<p>The development program considers and incorporates several factors including the preservation of two existing buildings in combination with the creation of new structure(s).</p>
<p>5. Section 8.5.6.7</p>	<p>Height may be increased up to 48 feet through a Special Permit by the Planning Board and in accordance with Section 9.3 to allow for architectural features that add to the building design and which shall not increase additional living space. Examples of such features include a pinnacle, cupola, a clock tower, a terrace, observation area, and the like</p>	<p>6 Stories (69' – 11") 5 Floors over parking garage (60'-11" from street grade)</p>	<p>The variable building heights provide architectural and visual interest, while supporting the overall development program and financial viability of the project. The tallest points of the building are setback significantly into the site and not particularly visible from Main Street or Myrtle Street.</p>
<p>6. Section 8.5.6.9</p>	<p>A fourth (4) story may be added to a building through a Special Permit by the Planning Board in accordance with Section 9.3.</p>	<p>6 Stories (69' – 11") 5 Floors over parking garage (60'-11" from street grade)</p>	<p>See above</p>

<p>7. Section 8.5.6.10</p>	<p>A fourth (4) story may be added to a building through a Special Permit by the Planning Board in accordance with Section 9.3.</p>	<p>6 Stories (69' – 11") 5 Floors over parking garage (60'-11" from street grade)</p>	<p>See above</p>
<p>8. Section 8.5.8</p>	<p>General Regulations. The Town of Ashland Design Review Guidelines (dated 2015 or the most recent edition), adopted by the Planning Board pursuant to the authority granted hereunder, available from the Town of Ashland Planning Department, shall guide the implementation of the standards of this section. All New signs will follow the sign requirements of the commercial "B: zones as noted in Sec 5.3." of this Zoning bylaw.</p>		<p>The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act in the place of the Ashland Planning Board. At this juncture, we have not yet designed the signage yet for the proposed exterior signage. At the time the signage has been designed, we will be submitting a "Notice of Project Change" to the ZBA as is required under Chapter 40B</p>
<p>9. Section 8.5.10.5</p>	<p>No driveway or parking lot shall be placed in the portion of a lot that is directly in front of a building as seen from a street, whether or not the building is located on the same lot as the driveway or parking lot, except that a driveway and parking lot may be placed in the front of a building that is located in the rear of another building when viewed from a street.</p>	<p>A small portion of the total parking is proposed in a parking area at the front of the building.</p>	<p>There was a small number of spaces positioned in front of the primary entrance to facilitate pick-ups and drop offs, as well as short-term parking. These design features were suggested by Ashland Town Officials.</p>
<p>10. Section 5.4.2</p>	<p>Buffering Between Residential and Nonresidential Uses.</p>	<p>The site will contain a non-residential use and abuts a residential zone and use. The site is surrounded by wooded areas that will remain untouched as part of this project.</p>	<p>The bylaw says that where a lot containing a nonresidential use adjoins or faces a residential district or residential use, landscaped buffers shall be provided at the perimeter of the lot to screen parking and other vehicular service areas. It adds that</p>

			<p>“Screening shall consist of a landscaped area 6-ft wide and create an effective visual barrier from ground level of at least 5’”. It is possible this waiver is not necessary as there is existing vegetation between the proposed development and the residential neighborhood to the rear, but this waiver was included in case the ZBA believes it is applicable.</p> <p>We may be ok removing this waiver but thought it would be good to include for flexibility as the design progresses</p>
11. Section 5.4.3	Buffer Areas	<p>The site abuts a residential zone and residential use to the southern property line. The site is surrounded by wooded areas that will remain untouched as part of this project.</p> <p>Additional plantings along the street frontage will be proposed along the street frontage.</p>	The landscaping plan will feature a robust set of plantings and buffering, but it will not be in perfect conformance to this Section as the existing site conditions in combination with the proposed program do not allow for as much.
12. Section 5.4.4	Parking areas containing eight (8) or more spaces shall contain or be bordered by at least one (1) tree per eight (8) spaces. Such trees shall be in any case not further than five (5) feet from the parking cell.	Internal landscaping near parking areas will be provided wherever possible.	We believe the municipality wants to maximize exterior parking spaces and as such, we will plant internal landscaping where appropriate, but will not perfectly conform to the Section 5.4.4
13. Section 5.4.7	Special Permit to authorize a reduction in authorized plantings.	Waiver requested from Special Permit and all applicable Special Permit requirements under this section.	The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act in the place of the Ashland Planning Board.
14. Section 8.5.11	Building Design Standards	The proposed design conforms to many provisions in this section, but does not	The Applicant ask the Zoning Board, per the 40B process, to act in place

		conform perfectly to all of them due the varied nature of the architectural forms and buildings	of the Planning Board. Moreover, it is not clear in reviewing this provision whether the proposed program complies or not with some of the requirements. The adherence will be discussed during the public hearing, and waivers will be sought if the ZBA determines the proposed design does not comply with certain provisions in 8.5.11
15. Section 5.1.4.2	There shall be not more than one (1) entrance and one (1) exit from such lots per two hundred (200) feet of street frontage or fraction thereof. If necessary, to meet this requirement, uses shall arrange for shared egress.	This project proposes two parking areas each with an entrance and exit.	The proposed parking program has been designed to provide maximum safety and convenience for the future users, including providing an adequate number of interior and exterior parking stalls.
16. Section 5.1.7	Special Permit for reduction in Parking	The project proposes 362 parking stalls. A waiver is requested from the Special Permit requirement.	No explanation necessary.
17. Section 5.3	Signs	The proposed project has not prepared conceptual signage as of yet due to the preliminary nature of this project	The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act in the place of the Ashland Planning Board. At this juncture, we have not yet designed the exterior signage. At the time the signage is designed, we will be submitting to the ZBA a "Notice of Project Change" as is required under Chapter 40B
18. Section 5.7.3	Erosion Control	There are existing slopes onsite that are in excess of horizontal of three (3) and a vertical of one (1) slope. A waiver is required to allow work on these slopes and waive the Special Permit requirement.	The Applicant is working with the existing grades/topography in developing the site.

19. Section 5.8	Site Alteration Special Permit	Waiver requested from Site Alteration Special Permit and all applicable Site Alteration Special Permit requirements under this section.	The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act in the place of the Ashland Planning Board.
20. Section 9	Administration and Procedures	Waiver requested from Site Plan Review and all applicable Site Plan Review requirements under this section.	The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act in the place of the Ashland Planning Board.
21. Section 9	Administration and Procedures	Waiver requested from Special Permit and all applicable Special Permit requirements under this section.	The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act in the place of the Ashland Planning Board.
22. Section 9	Administration and Procedures	Waiver requested from Design Plan Review and all applicable Design Plan Review requirements under this section.	The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act in the place of the Ashland Planning Board.

WAIVERS STORMWATER MANAGEMENT AND ILLICIT DISCHARGES AND CONNECTION OF THE TOWN OF ASHLAND (Chapter 247)			
LOCAL REGULATION	REQUIREMENT	PROPOSED	EXPLANATION
23. Chapter 247 - Stormwater Management and Illicit Discharges and Connections		Waiver requested from Stormwater Management and Illicit Discharges and Connection of the Town of Ashland as the proposed redevelopment is required to comply with State regulations.	The Applicant plans to pursue this development project through a Comprehensive Permit whereby the Ashland Zoning Board will act on all local permits and approvals. The project will comply with DEP Stormwater Management regulations and will eventually apply for a Notice of Intent with the Conservation Commission. The intent of this waiver request is to remove the requirement to submit local applications for Stormwater Management and Illicit Discharge.

WAIVERS FROM WETLANDS PROTECTION BYLAW OF THE TOWN OF ASHLAND (Chapter 280)			
LOCAL REGULATION	REQUIREMENT	PROPOSED	EXPLANATION
24. Chapter 280 – Wetlands Protection		Waiver requested from the following portions of the Wetlands Protection Bylaw of the Town of Ashland as the proposed redevelopment is required to comply with State regulations.	The Applicant has specified the specific provisions of Chapter 280 from which a waiver will be required below.
26. § 280-1.	Purpose & Resource Area Values. The Bylaw includes additional resource area values of erosion and sedimentation control, water quality, agriculture, and aquaculture.	Waiver requested from these additional waivers and that the project be subject to the resource area values identified within the MA Wetlands Protection Act (WPA).	The site requires compliance with the MA Stormwater Management Standards and a NPDES SWPPP; therefore, erosion, sedimentation control and water quality are appropriately addressed through the MA WPA without subjectivity. Agriculture and aquaculture are not applicable to this project.
27. § 280-2.	Statutory Authority. The Bylaw protects the resource areas under the MA WPA to a greater degree, protects additional resource areas beyond the Act recognized by the Town as significant, protects all resource areas for their additional values beyond those recognized in the Act, and imposes in local regulations and permits additional standards and procedures stricter than	Waiver requested from protection of resource areas under the MA WPA to a greater degree, to protect additional resource areas beyond those identified in the WPA, and to protect resource areas for their additional values beyond those in the WPA.	The resource areas on the site are protected appropriately and adequately under the Wetlands Protection Act. The additional protections under the local Bylaw are extraneous as the existing resources will be protected under the WPA for this specific site. See previous Waiver regarding resource area values.

	those of the Act and associated regulations (310 CMR 10.00).		
28. § 280-4.B.	Maintain a 25' No Disturb Zone (NDZ) around protected wetland resources.	Waiver requested from requirement to maintain a 25' NDZ.	The site is currently developed and the Applicant plans to redevelop the existing disturbed areas of the site, portions of which are located within 25 feet of resource areas. Site improvements will require work in the 25' NDZ, but should occur in previously disturbed areas.
29. § 280-7.	Prohibitions. No work or disturbance, including but not limited to grading and vegetation removal, shall be permitted within 25 feet of any resource area.	Waiver requested from local limitations for work within 25 feet of any resource area.	The site is currently developed and the Applicant plans to redevelop the existing disturbed areas of the site, portions of which are located within 25 feet of resource areas. Site improvements will require work in the 25' NDZ, but all of which should occur in previously disturbed areas.
30. § 280-9.	Administration. Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw....No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.	The Applicant requests a waiver for filing permit applications solely for this Bylaw.	The Applicant will file a Notice of Intent with the Conservation Commission under the MA WPA.

<p>31. § 280-9.</p>	<p>Administration. Any person filing a permit application with the Conservation Commission shall give written notice by certified mail (return receipt requested) to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors.</p>	<p>The Applicant requests a waiver from mailing notices via certified mail.</p>	<p>Per the MA WPA, abutter mailings can now be sent via Certificate of Mailing, which is how communications will occur here. Certified Mail notification was also not required for the Comprehensive Permit filing.</p>
<p>32. § 280-9.</p>	<p>Administration. In order for an application to be considered complete, the Commission must have approved the delineation of resource areas affecting the proposed project within three years of the submittal date through the issuance of an Order of Resource Area Delineation (ORAD).</p>	<p>The Applicant requests a waiver from the three year requirement for an ORAD.</p>	<p>The MA Permit Extension Act has extended the ORAD beyond three years, as such, MA Law has made the ORAD in this instance valid through 11/17/2028. The Applicant has included a waiver here to confirm the Town is in agreement with this legal interpretation.</p>
<p>34. § 280-12.</p>	<p>Surety. Methods of surety required by the Conservation Commission include A.) a proper bond, deposit of money, or negotiable securities, or B). Conservation Restriction.</p>	<p>The Applicant requests a waiver from the surety requirements.</p>	<p>The Applicant will not be placing any land in Conservation Restriction, as such a waiver is requested from subsection B.</p>
<p>36. § 348-1.</p>	<p>General Provisions. Purpose & Resource Area Values. The Regulations include additional resource area values of erosion and sedimentation control, water quality, agriculture, and aquaculture.</p>	<p>Waiver requested from these additional waivers and that the project be subject to the resource area values identified within the MA WPA.</p>	<p>The site requires compliance with the MA Stormwater Management Standards and a NPDES SWPPP; therefore, erosion and sedimentation control and water quality are appropriately addressed through the MA WPA without subjectivity. Agriculture and aquaculture are not applicable.</p>

38. § 348-3.B.	Protection of Buffer Zones.	The Applicant requests a waiver from the presumption of significance for the Buffer Zone and the performance standards for the 25' NDZ and 100' Buffer Zone.	The site is currently developed and the Applicant plans to redevelop the existing disturbed areas of the site, portions of which are located within 25 feet of resource areas. Site improvements will require work in the 25' NDZ and within the 100' Buffer Zone. The work should occur in areas previously disturbed.
39. § 348-4.	Rules for hiring outside consultants. Bylaw Review.	The Applicant requests a waiver for the Conservation Commission to hire outside consultants for review of the Bylaw (Ch. 280) and Regulations (Ch. 348) requirements for the Notice of Intent to be filed.	The Applicant is amendable to peer review fees for the review of the Notice of Intent subject to the MA WPA, but not for fees related to review of the local Bylaw as the Applicant has already paid peer review fees to Hancock Engineering to do as much.
40. § 348-4.	Rules for hiring outside consultants. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment may be a basis for the Commission to deny the permit application for lack of information.	The Applicant requests a waiver for the ten (10) day requirement.	The Applicant will work in good faith with the Commission as it has with the ZBA. But asks for a waiver from this provision as it is too severe to be able to deny the permit for a payment outside of the specified time window

By requesting the foregoing waivers from local bylaws and regulations, it is the intention of the Applicant to request a Comprehensive Permit to allow construction of the Project as shown on the Plan. If, in reviewing the Applicant's building permit application(s), the Building Commissioner determines that any additional waiver from local bylaws or regulations is necessary to permit construction to proceed as shown on the Plan, the Applicant requests that the Building Commissioner proceed as follows: The Applicant shall be informed of any additional waiver required and (a) any matter determined by the Building Commissioner to be of a de minimis nature shall be deemed within the scope of the waivers granted by the Comprehensive Permit; or (b) for any matter determined by the Building Commissioner not of a de minimis nature, including but not limited to potential adverse impacts on public health, safety, welfare or the environment, Applicant may submit a request to the Board for a determination under 760 CMR 56.05(11).